



**Steve Moyer**

*Vice President for Government Affairs*

March 11, 2014

To: Members of the U.S. House of Representatives

**RE: Trout Unlimited opposes H.R. 3189, The Water Rights Protection Act**

I am writing on behalf of Trout Unlimited (TU) and its 155,000 members to oppose H.R. 3189, The Water Rights Protection Act, which is scheduled for a vote later this week. We are sympathetic to the issue which spawned the bill, the ski industry's complaint about a draft Forest Service policy regarding ski industry water rights, and Representative Tipton's efforts to address the problem. But this bill fails to deliver a good solution, and goes far beyond the ski area issue, undermining other critical habitat-conserving authorities. We share the concerns voiced by the Forest Service and Department of the Interior in testimony to the Natural Resources Committee in November 2013 about the potential harmful impacts to agency authorities designed to protect streams and conserve watersheds. In light of these concerns and the intention of the Forest Service to fix the issue administratively, we ask you to oppose H.R. 3189.

TU has worked on western water issues extensively over the past 20 years. We understand, and agree with, the concerns from Colorado ski companies about the agency's draft policy to require ski areas to transfer their water rights to the United States as a condition of their land use permits. However, H.R. 3189 fails to navigate the intricate connection between federal natural resource law and state water law. Simply put, the language of the bill will jeopardize the ability of federal resource agencies to condition federal permits.

It is important that federal land management agencies retain the authority and responsibility to condition permits so as to protect streams and other public resources. A key part of protecting federal land watersheds, especially in the arid West, is maintaining healthy flows in streams. For years, TU has worked with the Forest Service and other stakeholders to protect instream flows on National Forests. Federal land managers have an important role to play in protecting streams – based on the Property Clause of the Constitution, Section 505 of the Federal Land Policy and Management Act, provisions of the Federal Power Act, and other authorities – and they also have a responsibility to work with their stakeholders and the states to do it right. Provisions of H.R. 3189 would harm the ability of federal land managers to use these authorities to protect streams, rivers, and vital fisheries.

In its testimony of November 2013 the Forest Service stated its intention to make changes to its ski area policy that it claims will eliminate any need for legislation. We urge the Forest Service

*Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization*

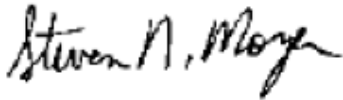
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to complete its new draft quickly and get it out for public review. TU pledges its resources and expertise to work with the ski industry and the Forest Service to reach a successful resolution to this issue. Instead of legislating now, we urge Congress to review the new policy draft, and then assess its adequacy, before determining the need to legislate.

We oppose H.R. 3189, and urge Congress to carefully consider agency testimony and the Forest Service's changes to its ski area policy first, and then determine if legislation is needed.

Sincerely,

A handwritten signature in black ink that reads "Steven N. Moyer". The signature is written in a cursive, flowing style.

Steve Moyer  
Vice President for Government Affairs  
Trout Unlimited